

Docket No.: NHL-HOL-63  
Serial No.: 10/723,451  
Customer No.: 00432

**REMARKS**

The Office Action dated August 24, 2005, has been reviewed in detail and the application has been amended in the sincere effort to place the same in condition for allowance. Reconsideration of the application and allowance in its amended form are requested based on the following remarks.

Applicants retain the right to pursue broader claims under 35 U.S.C. §120.

Applicants have provided a unique solution with respect to problems regarding BEVERAGE BOTTLING PLANT FOR FILLING BEVERAGE BOTTLES OR OTHER BEVERAGE CONTAINERS WITH A LIQUID BEVERAGE FILLING MATERIAL AND AN ARRANGEMENT FOR DIVIDING AND SEPARATING OF A STREAM OF BEVERAGE BOTTLES OR OTHER BEVERAGE CONTAINERS. Applicants' solution is now claimed in a manner that satisfies the requirements of 35 U.S.C. §102 and 103.

**Rejection of Claims 12-14 and 20 Under 35 U.S.C. §102:**

Claims 12-14 and 20 were rejected under 35 U.S.C. §102, as being unpatentable over Vamvakas (US 3552537). Specifically, the Examiner stated that:

“VAMVAKAS discloses a container filling plant conveyor

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arrangement with an input stream of conveyors (feed) that convey containers (C). A first conveyor (slow) and a second conveyor (fast) receive the containers at a first end (4) and convey them to the second end (5) where they diverge. A guide tip (36) separates the container stream and a guide (11) guides them on the conveyors. The conveyors are endless belt conveyors. A third conveyor (38) receives containers from the end of the first conveyor and a fourth conveyor (37) receives containers from the end of the second conveyor. Note that the direction of the containers are changed throughout each change of conveyor (See VAMVAKAS, Fig. 3)."

As understood, Vamvakas shows a conveyor system for controlling the flow of containers. The conveyor system essentially comprises an infeed conveyor 10, two conveyors 22 and 23, a median gap 31 with a center rail 32, a divider plow 36, and two discharge conveyors 47 and 48. The conveyors 22 and 23 are disposed parallel to one another throughout their entire length. The conveyor 22 moves at a slower linear speed than the conveyor 23 in order to break up the jamming or clustering of containers. As containers are fed at a substantial volume into the conveyor system via the infeed conveyor 10, the center rail 32 emerges and projects from the median gap 31, causing bottles to move toward either the slower conveyor 22 or the faster conveyor 23. The containers are thereby moved onto either the slower conveyor 22 or the faster conveyor 23. Any containers which ride the center rail 32 without

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moving towards either the slower conveyor 22 or the faster conveyor 23 will eventually run into the divider plow 36, where the containers will then be guided, based on their position on the center rail 32, towards either the slower conveyor 22 or the faster conveyor 23. Once containers have been positioned onto either the slower conveyor 22 or the faster conveyor 23, they are moved in a single file line toward their respective discharge conveyors 47 and 48.

Vamvakas, as understood, does not teach or suggest a conveyor structure with the features recited in Claims 12-14 and 20. As understood, Vamvakas shows two conveyors that are parallel to each other, and remain parallel throughout their entire length. Vamvakas further shows that the primary methods of separating bottles onto either the fast conveyor or the slow conveyor are the following: first, the conveyors run at two different speeds in order to prevent bunching or jamming of containers, and second, the center rail emerges and projects from the median gap, causing bottles to move toward either the slower conveyor or the faster conveyor, while the conveyor plates of the conveyors concurrently begin to assume an outward slope relative to each other. The bottles are thereby moved onto one of the conveyors, where they are eventually moved, in a single-file line, toward their respective discharge conveyor.

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In contrast to Vamvakas, Claim 12 recites, in part:

“said first conveyer structure and said second conveyer structure together being configured and disposed in a physical relation with respect to one another to separate the input stream of containers into the first output stream of containers and into the second output stream of containers;”

As stated above, Vamvakas, as understood, does not teach or suggest a conveyor structure with the features recited in Claim 12.

As understood, Vamvakas shows two conveyors that are parallel to each other, and remain parallel throughout their entire length.

Vamvakas does not teach or suggest that the first and second conveyor structures are configured and disposed in a physical relation with respect to one another in order to separate containers (emphasis added). According to Vamvakas, the differing speeds of the conveyor structures primarily cause the separation of the containers, not their physical relationship with respect to one another.

Also in contrast to Vamvakas, Claim 13 recites, in part:

“said second conveyer structure comprises a first portion disposed adjacent said input configured to receive an input stream of containers and a second portion disposed adjacent said second output being configured to discharge a second output stream of containers;

said second portion of said first conveyer structure and said second portion of said second conveyer structure being disposed to diverge from one another at a point of divergence;

said guide structure is disposed between said point of divergence and said first and second outputs to permit

separation of the first stream of containers into the first output stream of containers and into the second output stream of containers.”

Vamvakas, as understood, does not teach or suggest a conveyor structure with the above features as recited in Claim 13. As understood, Vamvakas shows two conveyors that are parallel to one another, and remain parallel to one another throughout their entire length, not two conveyor structures that are disposed to diverge from one another. Vamvakas shows an emerging center rail and a divider plow (36), in addition to the two conveyors running at different speeds, in order to separate containers. Vamvakas does not show that the two conveyors diverge from one another at an angle at a point of divergence in order to separate containers.

Also in contrast to Vamvakas, Claim 14 recites, in part:

“said guide structure comprises a tip portion;  
said second portion of said first conveyor structure and  
said second portion of said second conveyor structure are  
disposed at an angle with respect to one another to separate  
the first output stream of containers from the second output  
stream of containers; and

said second portion of said first conveyor structure and  
said second portion of said second conveyor structure diverge  
from one another anteriorly of said tip portion of said guide  
structure.”

Vamvakas, as understood, does not teach or suggest a conveyor structure with the above features as recited in Claim 14. As

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understood, Vamvakas shows two conveyors that are parallel to one another and remain parallel to one another throughout their entire length. Vamvakas further shows an emerging center rail and a divider plow (36), in addition to the two conveyors running at different speeds, in order to separate containers. Vamvakas does not teach or suggest that the two conveyors are disposed to diverge at an angle from one another after divergence, in order to separate containers.

In view of the above, it is respectfully submitted that Claim 12 distinguishes over Vamvakas. It is therefore believed that Claim 12 is allowable over Vamvakas. Claims 13-20 are also believed to be allowable over Vamvakas based on their dependence from Claim 12, as well as the distinguishing features recited therein.

**Rejection of Claims 15-19 Under 35 U.S.C. §103:**

Claims 15-19 were rejected under 35 U.S.C. §103 as being unpatentable over Vamvakas. Specifically, the Examiner stated that:

“VAMVAKAS discloses a conveyor arrangement, as described above.

VAMVAKAS does not specifically disclose the guide as being made of sheet metal or the angle of divergence between the first and second conveyors as being 1.5 deg.

Regarding Claim 15, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the guides of VAMVAKAS of sheet metal in order to provide a sturdy and durable structure, since it has been held

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to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claim 19, it would also have been obvious to one of ordinary skill in the art at the time the invention was made to make the angle of divergence 1.5 deg in order to provide an easy change of direction, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)."

Claim 15 recites, in part:

"at least one sheet metal surface structure;  
said at least one sheet metal slide structure is disposed adjacent said point of divergence to permit separation of the first output stream of containers and the second output stream of containers; and"

It is not recited in Claim 15 that the guide structure (3) according to the above-cited application is constructed with sheet metal, rather, the sheet metal surface structure (5) that is disposed adjacent and downstream of the point of divergence is constructed with sheet metal. Therefore, since Claim 12 is believed to be allowable, it is believed that Claim 15 is allowable based on its dependence on Claim 12. It is therefore believed that the Examiner's rejection to Claim 15 has been overcome.

Regarding the rejection to Claim 19, it is believed that since Claim 12 is now believed to be allowable, Claim 19 is also believed

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to be allowable based on its dependence on Claim 12.

In view of the above, it is respectfully submitted that Claim 12 distinguishes over Vamvakas. It is therefore believed that Claim 12 is allowable over Vamvakas. Claims 13-19 are also believed to be allowable based on their dependence from Claim 12, as well as the distinguishing features recited therein.

**Rejection of Claims 15-19 Under 35 U.S.C. §112, Second**

**Paragraph:**

Claims 15-19 were rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Specifically, the Examiner stated:

"In claim 15, line 4, it is unclear whether the "slide structure" slides or not.

In claim 15 lines 8-9 recite "slide structure is configured to cover at least a portion" but it is unclear what is being covered or what the portion is of."

In response thereto, Claim 15 has been amended herein above. The phrase "sheet metal slide structure" has been amended and clarified to read "sheet metal surface structure." It is therefore believed that the Examiner's rejection regarding the phrase "slide structure" has been overcome. In addition, the phrase "slide structure is configured



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to cover at least a portion” has been amended and clarified to read “sheet metal surface structure is configured to cover at least a portion of the space between said first conveyer structure and said second conveyer structure and to permit sliding of containers thereon.” It is therefore believed that the Examiner's rejection regarding “slide structure is configured to cover at least a portion” has been overcome. Further, since Claim 15 is now believed to be allowable, it is believed that Claims 16-19 are also allowable based on their dependence of Claim 15.

**Art Made of Record:**

The prior art made of record and not applied has been carefully reviewed, and it is submitted that it does not, either taken singly or in any reasonable combination with the other prior art of record, defeat the patentability of the present invention or render the present invention obvious. Further, Applicants are in agreement with the Examiner that the prior art made of record and not applied does not appear to be material to the patentability of the claims currently pending in this application.

In view of the above, it is respectfully submitted that this application is in condition for allowance, and early action towards that end is respectfully requested.

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**Leave to Delay Treatment of Formal Objections Until Allowable**

**Subject Matter is Indicated:**

In accordance with 37 C.F.R. §1.111, it is hereby respectfully requested that any objections or requirements not fully treated and set forth in the outstanding Office action that relate to form and are not necessary to further consideration of the now pending claims, be held in abeyance until allowable subject matter is indicated.

**Summary and Conclusion:**

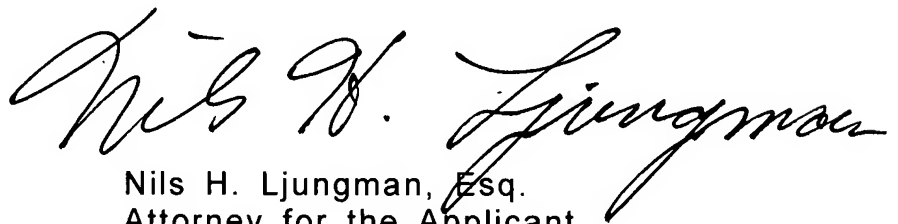
It is submitted that Applicants have provided a new and unique BEVERAGE BOTTLING PLANT FOR FILLING BEVERAGE BOTTLES OR OTHER BEVERAGE CONTAINERS WITH A LIQUID BEVERAGE FILLING MATERIAL AND AN ARRANGEMENT FOR DIVIDING AND SEPARATING OF A STREAM OF BEVERAGE BOTTLES OR OTHER BEVERAGE CONTAINERS. It is submitted that the claims, as amended, are fully distinguishable from the prior art. Therefore, it is requested that a Notice of Allowance be issued at an early date.

If mailed, I, the person signing this certification below, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the date indicated in the certification

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Respectfully submitted,

A handwritten signature in cursive script, reading "Nils H. Ljungman". The signature is written in black ink and is positioned above the printed name and address.

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